

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

RSA No.5342 of 2015 (O&M)
Date of Decision : 02.08.2017

Gurmakh Singh (deceased) through LRs. Appellants

Versus

Diwan Singh Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Nakul Sharma, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

By this appeal the appellants have challenged the concurrent judgments against them. The father of appellants No.(ii) to (iv) had filed a suit in the year 2006 challenging the sale deed which was executed by him in favour of the respondent-his brother. The case set up by the father of the appellants No.(ii) to (iv) was that in fact he had given this land on lease to his brother and had never executed any sale deed and the sale deed was a forgery and some impostor had appeared in his place before the Tehsildar and to disguise this sham transaction the respondent kept on paying him the rent and it was only six months prior to the filing of the suit that the respondent stopped paying rent to the father of the appellants and that is

when the father of the appellants No.(ii) to (iv) came to know of this dastardly deed.

It is not disputed that before evidence could be started the original plaintiff had died and therefore was not available for being cross-examined by the respondent. Both the Courts rejected the claim of the appellants and this how they are before this Court.

Learned counsel has argued that the appellants had produced hand-writing expert who had categorically averred that the signatures appearing on the sale deed were not those of the original plaintiff and this fact was not rebutted by the respondent. He further points out that the deed-writer whom the respondent had produced had conveniently stated that the original record had been lost and unauthorized persons had been produced by the respondent to prove the signatures of the witnesses.

In my opinion, all these points have been considered by the Courts below in the correct perspective. It is not disputed that the signatory of the sale deed, that is the original plaintiff, and the two witnesses had died by the time the case came for trial. The respondent in his evidence had admitted that he was originally tilling the land as a tenant of the original plaintiff and had been paying him the share of the produce but stopped doing so after the sale deed in his favour. The persons who appeared to prove the signature of the witnesses on the original sale deed gave clear and unequivocal testimonies which could not be shaken in the cross-examination. Further there is no question of law which arises in the present case.

Accordingly, the appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

August 02, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No